Supreme Court, U.S.
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No. 02-93

In the

Supreme Court of the United States

JAMSHID ZAMAN, an individual; MAHVASH ZAMAN, an individual; BEHROUZ ZAMAN, an individual; ZAMAN INC., a California Corporation dba Beverly Hills Motorworks; AFFORDABLE CARS INC., a California Corporation,

Petitioners,

v.

ATLANTIC RICHFIELD COMPANY, a Delaware Corporation,

and

FOX & FIELDS, a general partnership; ROBERT J. FOX; JERRY FIELDS; LAWRENCE R. ANSLEY, SR.; MARGARET ANSLEY,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

REPLY BRIEF

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I. THE ISSUES PRESENTED ARE IMPORTANT AND RECURRING

ARCO does not (and could not) dispute that the Petition presents issues of enormous constitutional and practical importance. The Court of Appeals' decision on ARCO's standing, if upheld, would practically abolish the case-or-controversy requirements of the Constitution. ARCO has failed to counter Petitioners' argument that the Court of Appeals' decision would in effect allow all potential defendants to make a federal case out of ordinary state claims of nuisance and trespass. According to the Court of Appeals' decision, defendants in state courts can easily remove ordinary state tort actions to federal court by the mere fact that plaintiff has sued and alleged that defendant was responsible for the contamination. The Court of Appeals' decision encourages all potential state defendants to take the initiative and file a citizen suit in federal court and take advantage of the RCRA's fee provision which is more readily available to plaintiffs than to defendants and not available in state courts. The impact of the Court of Appeals' decision is very far reaching. It would apply to all citizen suit statutes passed by Congress, such as RCRA, the Civil Rights Act, etc.

In its brief in opposition, ARCO concedes that its sole purpose for filing this RCRA lawsuit was to use the federal court as a vehicle to take preventive measures against becoming a defendant in the state court. ARCO also admits that RCRA more readily authorizes an award of attorneys' fees to a plaintiff than a defendant and that California law does not provide for attorneys' fees for state tort actions. While it may have made good strategic sense for ARCO to have taken the initiative to become a Plaintiff in the federal court with the right to recover its attorneys' fees if it wins without the risk of paying the other party's attorneys' fees if it loses, as opposed to potentially becoming a defendant in the state court without the right to attorneys' fees, such strategy does not satisfy the "rigorous" requirements of standing enunciated by this court and does not comport with the legislative intent of the fee provision of RCRA.

ARCO has failed to seriously dispute all of the essential reasons why review should be granted: This court has consistently held that the case-or-controversy requirements of Article III of the Constitution is a critically important jurisdictional limitation of federal courts. These requirements are "rigorous" and the issue of federal court's jurisdiction is of the utmost importance. As stated in the Petition, the Court of Appeals has decided this extremely important federal question in a way that conflicts with the precedents set by this court. Although, ARCO attempts to defeat review by downplaying the rigorous requirements of Article III standing enunciated by this court and the Court of Appeals' failure to follow this court's precedents in that regard, or by mischaracterizing the constitutional issue presented as erroneous factual findings or the misapplication of properly stated rule of law, or by asserting that Petitioners' argument regarding RCRA fee provision should be ignored by this court, or that Petitioners have violated Rule 14 of this court, its arguments are unconvincing. Further review is plainly warranted.

II. ARCO HAS FAILED TO DEFEND THE COURT OF APPEALS' BASIS FOR THE COURT'S JURISDICTION

ARCO has failed to discuss and defend the Court of Appeals' justification for finding that ARCO has article III standing. Instead, in a shot gun approach, ARCO has submitted for this court's consideration three hypothetical injuries: (1) threat of suit by petitioners; (2) threat of suit by adjacent landowners; (3) threat of agency enforcement action. Realizing that the Court of Appeals' basis for ARCO's standing does not comport with this court's precedents, ARCO has added two additional hypothetical injuries (which were raised and argued and were rejected by the Court of Appeals) in the hope that one of the asserted injuries would be accepted.

ARCO concedes that it has not suffered any actual injuries. However, ARCO contends that even though it did not suffer any actual injuries, it could have suffered future

injuries. As discussed below in more detail, all three injuries asserted by ARCO are hypothetical injuries which do not satisfy the rigorous requirements set by this court.

1. None of the Future Injuries Asserted by ARCO Involve "An Invasion of a Legally-protected Interest"

This court has held that plaintiff's "injury in fact" must involve an "invasion of a legally-protected interest." *Lujan v Defenders of Wildlife*, 504 U.S. 555, 559-560, 112 S.Ct. 2130, 2136 (1992). ARCO has not (and could not) cite any authority in support of a notion that freedom from worries or concerns about lawsuits or governmental action is a legally-protected interest. For this simple reason, ARCO lacks Article III standing. In fact, this court has held that where a plaintiff cannot establish that it has suffered an injury in fact for which it may seek legal redress, rather than being a concerned bystander to someone else's injury, it has no right to invoke the jurisdiction of the federal court. *Valley Forge Christian College v Americans United for Separation of Church and State*, 454 U. S. 464, 473, 102 S. Ct. 752 (1982). Considering all the injuries asserted by ARCO in its opposition, at best, ARCO is merely a concerned bystander to someone else's injury and, therefore, has no right to invoke the jurisdiction of the federal court.

2. None of the Future Injuries Asserted by ARCO Were Imminent

This court has also held that plaintiff's "injury in fact"must be (a) concrete and particularized, and (b) "actual or **imminent**," not "conjectural" or "hypothetical." *Lujan v Defenders of Wildlife*, 504 U.S. 555, 559-560, 112 S.Ct. 2130, 2136 (1992); *Whitmore v Arkansas*, 495 U.S. 149, 155, 110 S.Ct. 1717, 1724-1725 (1990) (Emphasis added). In the present case, ARCO has failed to show that any of the asserted future injuries were imminent. There is no findings of fact by the District Court or the Court of Appeals that a lawsuit by petitioners or a lawsuit by adjacent landowners or

an agency enforcement action were imminent. ARCO has not even discussed this important criteria in its Opposition Brief. Since ARCO has not been able to show that the asserted future injuries were imminent, ARCO lacks Article III standing.

3. A Threat or Fear of a Lawsuit or an Enforcement Action Does Not Satisfy Article III Requirements

A threat or fear of a lawsuit or a government enforcement action does not satisfy the standing requirements of the United States Constitution. "It has been established...that fear of possible future application of a federal criminal statute does not confer standing in a declaratory judgment action." *Adult Video Ass'n v United States Dep't of Justice*, 71 F. 3d 563, 565-67 (6th Cir. 1995). "The mere existence of a statute, which may nor may not ever be applied to plaintiffs, is not sufficient to create a case or controversy within the meaning of Article III." *Stoianoff v Montana*, 695 F. 2d 1214, 1223 (9th Cir. 1983).

In *National Rifle Association v Magaw*, 132 F. 3d 272 (6th Cir. 1997), several plaintiffs claimed they were inhibited from possessing firearms because they feared prosecution. The court held: "The mere 'possibility of criminal sanctions applying does not in and of itself create a case or controversy.' (Citations). The individual plaintiffs have failed to show the high degree of immediacy necessary for standing when fear of prosecution is the only harm alleged. (Citation)." *Id.* at 293. The court further noted that some of the plaintiffs had submitted hypothetical questions to the ATF and were advised that the hypothetical activity would subject them to federal prosecution. The court held that this threat of prosecution was still too speculative to confer standing. *Id.* at 293-94.

Similarly, in this case, the mere possibility of a civil lawsuit or an enforcement action by a public agency does not in and of itself create a case or controversy. ARCO has failed to show the high degree of immediacy necessary for standing since the threat of lawsuit or an enforcement action is the

only harm asserted.

4. *ARCO's Asserted Injuries Are Not Real since They Were Not Alleged in the Pleadings*

Although ARCO contends that it has suffered three specific injuries, it has failed to explain and respond to the Zaman Parties' contention that ARCO did not mention any of the three asserted injuries in the First Amended Complaint or in the First Amended Pre-Trial Conference Order. This court has held that "[f]irst and foremost, there **must be alleged (and ultimately proven)** an 'injury in fact'..." *Steel Co. v. Citizens for a Better Environment*, 523 U.S. 83, 103, 118 S.C. 1003, 1016 (1998) (Emphasis added). ARCO has never sought to amend the pleadings to include the three alleged injuries. In fact, paragraph 33 of ARCO's First Amended Complaint states as follows:

> Atlantic Richfield is not aware of any action taken on behalf of the United States, any federal agency, the State of California, or any State agency to commence and diligently prosecute an action to restrain or abate acts or conditions which may have contributed or are contributing to the activities which may present the alleged endangerment.

As it can be seen, one of ARCO's injuries that is asserted now was affirmatively denied by ARCO itself at the time of the filing of this lawsuit. As such, ARCO cannot claim that it was concerned about the possibility of an enforcement action. ARCO should not be allowed to conjure up hypothetical injuries post-trial in order to confer Article III standing.

5. *There Is No Causal Relationship Between the Asserted Injuries and the Challenged Conduct*

ARCO has failed to discuss and explain the causal relationship between the injury found by the Court of

Appeals (Petitioners' contention of ARCO's liability) and the challenged conduct. In that regard, ARCO has merely stated that "Petitioners' continued failure to commence remediation was increasing the amount of damages that might have been assessed against Atlantic Richfield." (Opposition Brief, Page 10). However, there is no finding of fact by either the Court of Appeals or the District Court that ARCO's potential amount of damages were increasing. Furthermore, There is no finding by the lower courts that it would have cost more to defend a potential lawsuit by the Zaman Parties, the adjacent landowners or the government than to file a RCRA lawsuit. ARCO admits that it had spent in excess of $200,000 in connection with site assessment and removal of the most dangerous contaminants. (Opposition Brief, page 3). However, there is no finding by the lower courts that it would have cost more for ARCO to complete the cleanup of the property than to litigate the present action for eight years all the way to this court just to obtain an injunction against Mr. Zaman to cleanup his own property. Finally, if ARCO believed that it was not responsible for the contamination, it should not have been worried about the cleanup cost.

This court has held that the requirement of "a causal relationship between the injury and the challenged conduct" means "that the injury 'fairly can be traced to the challenged action of the defendant,' and has not resulted 'from the independent action of some third party not before the court.'" *Northeastern Florida Chapter of Assoc. General Contractors of America v City of Jacksonville*, 508 U.S. 656, 663 (1993). In the present case, ARCO's hypothetical injury of a likelihood of a lawsuit by adjacent land owners and an enforcement action would actually result from the independent action of some third party not before the court, i.e., the neighboring property owners and RWQCB, not from the challenged actions of the Zaman Parties.

6. The Injunctive Relief Sought by ARCO Would Not Redress the Asserted Injuries

ARCO has failed to discuss and explain as to how an injunctive relief against Mr. Zaman would redress ARCO's

injury found by the Court of Appeals (Petitioners' contention of ARCO's liability). This court has held that "a likelihood that the injury will be redressed by a favorable decision" means "that the 'prospect of obtaining relief from the injury as a result of a favorable ruling' is not '**too speculative**.'" *Northeastern Florida Chapter of Assoc. General Contractors of America, supra*, 508 U.S. at 663-64 (Emphasis added). As such, it would be pure speculation to assert that an injunction against Mr. Zaman to clean up his own Property would enjoin him from filing a lawsuit against ARCO. To the contrary, filing a RCRA action against Mr. Zaman forced him to file a counter-claim whereas he may not have filed any such action had he not been sued by ARCO in the first place. Similarly, it would be pure speculation to assert that an injunction against the Zaman Parties would enjoin the neighboring property owners from filing a lawsuit against ARCO or would enjoin RWQCB from issuing any enforcement orders against ARCO. Since the neighboring property owners and RWQCB are not parties to this action, this court would have no jurisdiction over them and could not possibly enjoin them from conducting any of their activities.

ARCO has argued, and the District Court has made a finding, that unless remediated, the contamination at the property is likely to continue to migrate to adjacent properties, and will continue to pose an imminent or substantial threat to health or the environment. However, an interest shared generally with the public at large in proper application of the Constitution and laws is not sufficient. *Arizonans for Official English v. Arizona*, 520 U.S. 43, 64, 117 S.C. 1055, 1067 (1997).

It is not enough that a favorable judgment will benefit the public at large or punish a wrongdoer or simply make plaintiff happy. Psychic satisfaction is not enough for Article III standing. *Steel Co. v. Citizens for a Better Environment*, 523 U.S. 83, 107, 118 S.C. 1003, 1019 (1998).

III. PETITIONERS HAVE COMPLIED WITH ALL THE APPLICABLE REQUIREMENTS OF RULE 14.

ARCO's contention that Petitioners have failed to comply with the applicable requirements of Rule 14 has no merit. ARCO specifically contends that this Petition should be denied because Petitioners have allegedly failed to comply with Rule 14(4) of this court. Rule 14(4) of this court provides as follows:

> The failure of a petitioner to present with accuracy, brevity, and clarity whatever is essential to ready and adequate understanding of the points requiring consideration is sufficient reason for the Court to deny a petition.

ARCO has failed to show that this Petition has not been presented with accuracy, brevity and clarity. ARCO's contention that the Petitioners were required to attach the District Court's order denying defendants' motion to vacate the judgment has no merit. Petitioners have properly attached Circuit Court Opinion, the District Court Opinion, Order Denying Petition for Rehearing, and the District Court Judgment, as required by Rule 14. Petitioners have not sought the review of the District Court's order denying defendants' motion to vacate the judgment. As such, there was no need to attach the order as an appendix. Petitioners have cited to this order in the Procedural History of the Petition, Page 2.

IV. PETITIONERS' ARGUMENT THAT RCRA MORE READILY AUTHORIZES AN AWARD OF ATTORNEYS' FEES TO A PLAINTIFF THAN A DEFENDANT IS NOT A NEW ISSUE, BUT RATHER A NEW ARGUMENT IN SUPPORT OF PETITIONERS' CONTENTION THAT ARCO LACKS ARTICLE III STANDING

ARCO concedes that RCRA more readily authorizes an award of attorneys' fees to a plaintiff than to a defendant,

thereby giving ARCO an incentive to initiate this RCRA suit. However, ARCO contends that this is a new issue that is raised for the first time on review and, therefore, should not be considered by this court. ARCO's contention has no merit since this is not a new claim, but rather a new argument in support of Petitioners' claim that ARCO lacks Article III standing. This court's "traditional rule is that '[o]nce a federal claim is properly presented, a party can make any argument in support of that claim; parties are not limited to the precise arguments they made below.' (Citation.)" *Lebron v National Railroad Passengers Corp.*, 513 U.S. 374, 379 (1995). *See also PGA Tour, Inc. v Martin*, 121 S.Ct. 1879, 1891 n.27 (2001) (where Americans with Disabilities Act coverage issue was raised below, Court would entertain new argument regarding the statute's scope).

ARCO's argument that a RCRA defendant is not at a disadvantage because said defendant may be able to file a RCRA counterclaim or cross-claim and receive attorneys' fees as a counter-claimant or a cross-claimant has no merit. This argument suggests that the standards set by this court can be reversed by defendants simply filing a counterclaim or cross-claim. Additionally, ARCO has failed to counter the argument that a RCRA Plaintiff is in a much more advantageous position than a state court defendant since a RCRA Plaintiff is entitled to its attorneys' fees without any risk while a state defendant is not.

V. ARCO HAS FAILED TO PROVIDE EVIDENCE IN THE RECORD IN SUPPORT OF THE COURT OF APPEALS' DECISION ON STANDING

ARCO has failed to provide this court with any evidence admitted in the record in support of the Court of Appeals' finding that "[t]he Zaman Parties, through their representative Ebrahimi, contended that ARCO was responsible for the contamination and demanded that the company help cover remediation costs." Instead, ARCO has referred to excerpts from the transcript of Mr. Ebrahimi's deposition testimony, which were included as pages 590-600

of the Supplemental Excerpt of Record filed by ARCO with the Ninth Circuit, without attaching the same as an appendix (See Opposition Brief, page 4, fn 4). In reply, Petitioners have attached pages 590-600 of the Supplemental Excerpt of Record filed by ARCO to show that the transcript is devoid of any facts in support of the Court of Appeals' findings in that regard (Reply Appendix 1a-8a)[1].

As it can bee seen from Mr. Ebrahim's deposition transcript, cited by ARCO, there is no testimony that Mr. Zaman ever made any contention of liability against ARCO. Nor is there any testimony that Mr. Zaman demanded that ARCO help cover remediation costs. That is why ARCO has not attached Mr. Ebrahimi's deposition transcript as an appendix. Finally and most importantly, the district court did not make any finding and the record is devoid of any evidence that Mr. Ebrahimi was acting as the representative of any of the Zaman Parties. Yet, the Court of Appeals made such a finding. The Court of Appeals' finding of facts in support of ARCO's Article III standing simply does not exist in the record. Thus, the Court of Appeals has acted in a clear departure from the accepted and usual course of judicial proceedings.

CONCLUSION

The Petition for a writ of certiorari should be granted.

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[1] The Deposition Transcript's page numbers are indicated by [*] and the Supplemental Excerpts of Record's page numbers are indicated by [**].

[**589] No. CV95-0566 ABC (AWJx)

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

ATLANTIC RICHFIELD COMPANY,
a Delaware Corporation,
Plaintiff

v.

JAMSHID ZAMAN, an individual, MAHVASH ZAMAN, an individual, BEHROUZ ZAMAN, an individual, ZAMAN INC., a California Corporation, d/b/a BEVERLY HILLS MOTORWORKS; and AFFORDABLE CARS, INC., a California Corporation,
Defendants.

VOLUME I

DEPOSITION OF ALI EBRAHIMI
FRIDAY, DECEMBER 11, 1998 [*42] [**590]

Q. You were paid by Mr. Zaman for assisting him in connection with efforts to develop the property?

A. Something like that.

Q. Can you recall how long that relationship lasted where you were a consultant or a fee developer?

A. I can't tell you the date. Eventually, we reach an impasse on question of indemnification; and that's basically when we drew - - we figured it's just, you know, not going anywhere.

Q. When you say you reached an impasse, an impasse with whom?

A. With ARCO.

Q. Over indemnity for off-site contamination?

A. Right. We were not so concerned about indemnity for on-site because part of the condition was we were going to clean it up so there was no further contamination or contribution to contamination would occur on the site and we would get a clean bill of health from the authorities.

But our problem was that the **[*43] [**591]** water in Beverly Hills moves. And it was - - At least it looked like that the contamination was not coming from any Source but this source. And, therefore, any contamination of neighboring properties would - - you know, they would come after us or whoever owns the building at the time. So we needed an indemnification.

Q. You sought an - - Oh, excuse me, please.

A. Yeah, we sought an indemnification from ARCO that if there's -in the future there is some claims by neighboring properties, that they would defend us and hold us harmless.

Q. And when you say "defend us, " do you mean Ersa Grae or Ersa Grae and Mr. Zaman?

A. Whoever was the owner of the building.

Q. And was this at a time - - or these discussions at a time when Ersa Grae was acting as a consultant or fee developer for Mr. Zaman?

A. Yeah, I mean, I can't really **[*44] [**592]** give you a date, you know, when actually the thing changed; but sometime during the negotiation with ARCO. The amount of time it was taking and, you know - - And so we chose to remain as a consultant rather than, you know, pursue as developer.

Q. And when you became a consultant, were you still seeking that indemnity from - -

A. Yes.

Q. - - ARCO?

A. Yes, because, you know, you needed it for financing. You needed it to sell the building in the future to - - It was just for a variety of reasons. It was . . .

Q. The concern about the water moving, was that a concern relating to possible gasoline in the water that would be moving off-site?

A. Oh, I don't know what element. I know one of the holes that either we drilled or ARCO drilled - - I can't remember whether it was us or ARCO - - but one of the holes was downstream in the street, not Burton Way The other street. **[*45] [**593]**

Q. Robertson?

A. Robertson. And it was quite obvious that, you know, there's contamination there off-site towards the south. And I, you know - - That brought the concern what happens if some of these people - - That hole was in the street. It wasn't on somebody's property. But what happens if somebody in the neighboring properties start, you know, claiming that the owner of this land has contaminated their property? And the first people they would sue would be the people who own the building. And that's why we thought it would be a - - you know, almost impossible to finance it and then later on sell it without that indemnity.

Q. Can you recall what particular elements were found in that well or boring drilled in Robertson? Was it waste oil?

A. I don't know.

Q. As you sit here today, you can't recall whether it was waste oil - -

A. No.

Q. - - or gasoline - -

A. Right. **[*46] [**594]**

Q. - - or some other element?

A. Just bad stuff. That's all I can tell you.

Q. How much did Ersa Grae receive for acting as a consultant to Mr. Zaman?

A. I don't know if we received anything or - - I don't know. I mean, our main compensation would have come from sharing in the, you know, eventual construction management fees and maybe get the personal profits or something like that.

Q. As you sit here today, can you recall receiving any moneys from Mr. Zaman at any time?

A. I really don't have a clue, that - - you know, how - - when it was transferred between us.

Q. At the time you had your dealings with Mr. Zaman, did you have an opinion as to how well Mr. Jamshid Zaman understood English?

A. I hardly ever spoke English to him. We spoke Farsi. So it was pretty hard for me to say if his English. . .

Q. In connection with any meetings **[*47] [**595]** that you and Mr. Zaman may have had with third parties, including ARCO, in those meetings did Mr. Zaman speak much; or did you do the bulk of the speaking?

A. No, I'm afraid I did most of the speaking. I don't know if it's because I talk too much or he's timid but - -

Q. But basically by agreement or some understanding with you and Mr. Zaman, you did most of the speaking in those meetings?

A. Well, I was more familiar with the issues, you know.

Q. I realize we're going back about 12 years in time here, and so it is very hard to come up with precise dates. But I'd like to ask when you first realized that there were contaminants in the ground that would have an effect on the ability to go forward with the contemplated development.

A. Pretty quickly after we signed the contract. We, you know - - As I said, there was some report that we became aware that there is potential contamination. And then fairly quickly we did the drilling and **[*48] [**596]** confirmed that there is contamination. And as part of the report - - I think it was in the report. Somehow we came up with the idea of approaching ARCO. And that's, you know, how it all started. But it was fairly quickly that we realized it was contaminated.

Q. Did that initial testing include the test in Robertson, to which you testified a couple minutes earlier?

A. That's why I said I don't know if it's us or ARCO because I know ARCO tested - - also did some drilling. And it was in one of those two that - - You know, I would be surprised if we did it because our main focus at the beginning would have been the property itself. And then maybe we would have gone back and do some off-site drilling. So, logically, probably it was done by ARCO; but I really, you know, can't remember.

Q. Who came up with the idea of approaching ARCO after you had identified some contaminants on the property?

A. I think the people who made the report. **[*49]**

[597]**

Q. Can you recall who those people were?

A. No. It must be in the documents somewhere, but I don't remember.

Q. Do the names IT - -

A. Yes -

Q. - - Testing -

A. - - that sounds very familiar.

Q. And was it someone at IT who suggested that, that ARCO be contacted?

A. I think so.

Q. Let me just try to understand the chronology. The contract was signed. You then engaged a company - - it could have been IT - - to do some testing on the property itself?

A. Yes.

Q. Testing came back with indication that there were some contaminants, although you can't at this point remember what those contaminants were.

A. Right.

Q. Did you next, in connection with this matter, approach Mr. Zaman to alert him to the fact that these contaminants were **[*50] [**598]** found at the property?

A. Yes, of course.

Q. And in response did Mr. Zaman say anything to you about those contaminants?

A. Well, he gave us what he thought was the history of the property; and we did some research ourselves. And then – Then, I think, we tried to find out who are the people who contributed to the contamination and tried to go and see if we can get them to share the cost of cleanup. And I assume that's how ARCO's name came up.

Q. By giving you a history, do you mean. that Jamshid Zaman told you how the property had been used?

A. Right.

Q. Did he, in that conversation, give any indication as to whether ARCO might be liable for some part of the cleanup?

A. Well, yeah, Mr. Zaman thought, you know, that he hasn't contributed to the contamination. And by elimination it must have been ARCO who owned the property for a long time or whatever.

Q. Did he - - By "he," I mean did **[*51] [**599]** Jamshid Zaman have a conversation - - discuss with you the fact that he had leased that property at one time to a company known as Atlas Leasing?

A. Yes. I mean, we went through - - I'm not recalling a specific conversation, obviously. I'm just - - you know, by my impression of the events. I mean, he - - his idea was that he really never - - I don't know whether he or the people before him tested the thing. Anyway - - the tanks. Anyway, his position or his belief was that he had not contributed to the contamination.

Q. But he did tell you who had used the property.

A. Right. We heard that from the title company, anyway.

Q. But you also got the history from Jamshid Zaman?

A. Right.

Q. And he told you who had used the property and how they had used the property?

A. As a gas station or what, yes. For what purpose they used the property.

Q. Did you at some point prepare a **[*52] [**600]**chronology of how the property was used and forwarded to ARCO?

A. I would not have remembered had I not seen it in these, but there was a chronology here that looked like it was prepared by me.

Q. And was that prepared, in part, from the information that Jamshid Zaman had given you?

A. Mr. Zaman, we obviously Although I believe what Mr. Zaman says, we didn't rely on everything he said because, you know, he was not very familiar with the laws and the con - - And so we - - We also got some help from IT, the consultants. And - - I don't know. We may have even had another consultant. Maybe we had two. And that's based on all that information. We developed, what we thought was the chronology.

Q. Although Mr. Jamshid Zaman wasn't familiar with the legal issues, he certainly was familiar with the factual history.

A. Yes. From the day he bought it, yes.